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SENATE BILL 289

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Linda M. Lopez

FOR THE WELFARE REFORM OVERSIGHT COMMITTEE

AN ACT

RELATING TO WELFARE REFORM; EXTENDING THE LIFE OF THE WELFARE REFORM OVERSIGHT COMMITTEE; AMENDING THE NEW MEXICO WORKS ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 2-17-1 NMSA 1978 (being Laws 1998, Chapter 8, Section 21 and Laws 1998, Chapter 9, Section 21) is amended to read:

"2-17-1. WELFARE REFORM OVERSIGHT COMMITTEE CREATED- -TERMINATION. --The joint interim legislative "welfare reform oversight committee" is created. The committee shall function from the date of its appointment until December 15 prior to the first session of the [forty-sixth] forty-ninth legislature. "

Section 2. Section 27-2B-3 NMSA 1978 (being Laws 1998,

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1 Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as
2 amended by Laws 2001, Chapter 295, Section 1 and by Laws 2001,
3 Chapter 326, Section 1) is amended to read:

4 "27-2B-3. DEFINITIONS. -- As used in the New Mexico Works
5 Act:

6 A. "benefit group" means a pregnant woman or a
7 group of people that includes a dependent child, all of that
8 dependent child's full, half, step- or adopted siblings living
9 with the dependent child's parent or relative within the fifth
10 degree of consanguinity and the parent with whom the children
11 live;

12 B. "cash assistance" means cash payments funded by
13 the temporary assistance for needy families block grant
14 pursuant to the federal act and by state funds;

15 C. "department" means the human services
16 department;

17 D. "dependent child" means a natural, adopted or
18 step-child or ward who is:

19 (1) seventeen years of age or younger; [or who
20 is];

21 (2) eighteen years of age and is enrolled in
22 high school; or

23 (3) between eighteen and twenty-two years of
24 age and is receiving special education services regulated by
25 the state board of education;

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1 E. "director" means the director of the income
2 support division of the department;

3 F. "earned income" means cash or payment in kind
4 that is received as wages from employment or payment in lieu of
5 wages; and earnings from self-employment or earnings acquired
6 from the direct provision of services, goods or property,
7 production of goods, management of property or supervision of
8 services;

9 G. "federal act" means the federal Social Security
10 Act and rules promulgated pursuant to the Social Security Act;

11 H. "federal poverty guidelines" means the level of
12 income defining poverty by family size published annually in
13 the federal register by the United States department of health
14 and human services;

15 I. "immigrant" means alien as defined in the
16 federal act;

17 J. "parent" means natural parent, adoptive parent,
18 stepparent or legal guardian;

19 K. "participant" means a recipient of cash
20 assistance or services or a member of a benefit group who has
21 reached the age of majority;

22 L. "person" means an individual;

23 M. "secretary" means the secretary of the
24 department;

25 N. "services" means child-care assistance; payment

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1 for employment-related transportation costs; job search
2 assistance; employment counseling; employment, education and
3 job training placement; one-time payment for necessary
4 employment-related costs; case management; or other activities
5 whose purpose is to assist transition into employment; ~~and]~~

6 0. "unearned income" means old age, survivors and
7 disability insurance; railroad retirement benefits; veterans
8 administration compensation or pension; military retirement;
9 pensions, annuities and retirement benefits; lodge or fraternal
10 benefits; shared shelter payments; settlement payments;
11 individual Indian money; child support; unemployment
12 compensation benefits; union benefits paid in cash; gifts and
13 contributions; and real property income; and

14 P. "vehicle" means a conveyance for the
15 transporting of individuals to or from employment, for the
16 activities of daily living or for the transportation of goods;
17 "vehicle" does not include boats, trailers or mobile homes used
18 as a principle place of residence. "

19 Section 3. Section 27-2B-6 NMSA 1978 (being Laws 1998,
20 Chapter 8, Section 6 and Laws 1998, Chapter 9, Section 6, as
21 amended by Laws 2001, Chapter 295, Section 3 and by Laws 2001,
22 Chapter 326, Section 3) is amended to read:

23 "27-2B-6. DURATIONAL LIMITS. --

24 A. Pursuant to the federal act, on or after
25 July 1, 1997 a participant may receive federally funded cash

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1 assistance and services for up to sixty months.

2 B. During a participant's fourth, sixth and eighth
3 semi-annual reviews, the department shall examine the
4 participant's progress to determine if the participant has
5 successfully completed an educational or training program or
6 increased the number of hours he is working as required by the
7 federal act. The department may refer the participant to
8 alternative work activities or provide additional services to
9 address possible barriers to employment facing the participant.

10 C. Up to twenty percent of the population of
11 participants may be exempted from the sixty-month durational
12 limit set out in Subsection A of this section because of
13 hardship or because those participants are battered or subject
14 to extreme cruelty.

15 D. For the purposes of this section, a participant
16 has been battered or subjected to extreme cruelty if he can
17 demonstrate by reliable medical, psychological or mental
18 reports, court orders or police reports that he has been
19 subjected to and currently is affected by:

- 20 (1) physical acts that result in physical
21 injury;
- 22 (2) sexual abuse;
- 23 (3) being forced to engage in nonconsensual
24 sexual acts or activities;
- 25 (4) threats or attempts at physical or sexual

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1 abuse;

2 (5) mental abuse; or

3 (6) neglect or deprivation of medical care
4 except when the deprivation is based by mutual consent on
5 religious grounds.

6 E. For the purposes of this section, a hardship
7 exception applies to a person who demonstrates through reliable
8 medical, psychological or mental reports, social security
9 administration records, court orders, [Ø] police reports or
10 department records that he is a person:

11 (1) who is barred from engaging in a work
12 activity because he is temporarily or completely disabled;

13 (2) who is the sole provider of home care to
14 an ill or disabled family member;

15 (3) whose ability to be gainfully employed is
16 affected by domestic violence; [Ø]

17 (4) whose application for supplemental
18 security income is pending in the application or appeals
19 process and who:

20 (a) meets the criteria of Paragraph (1)
21 of this subsection; or

22 (b) was granted a waiver from the work
23 requirement pursuant to Paragraph (1) of Subsection I of
24 Section 27-2B-5 NMSA 1978 in the last twenty-four months; or

25 (5) who otherwise qualifies for a hardship

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1 exception as defined by the department.

2 F. Pursuant to the federal act, the department
3 shall not count a month of receipt of cash assistance or
4 services toward the sixty-month durational limit if during the
5 time of receipt the participant:

6 (1) was a minor and was not the head of a
7 household or married to the head of a household; or

8 (2) lived in Indian country, as defined in the
9 federal act, if the most reliable data available with respect
10 to the month indicate that at least fifty percent of the adults
11 living in Indian country or in the village were not employed. "

12 Section 4. Section 27-2B-8 NMSA 1978 (being Laws 1998,
13 Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as
14 amended by Laws 2001, Chapter 295, Section 5 and by Laws 2001,
15 Chapter 326, Section 5) is amended to read:

16 "27-2B-8. RESOURCES. --

17 A. Liquid and nonliquid resources owned by the
18 benefit group shall be counted in the eligibility
19 determination.

20 B. A benefit group may at a maximum own the
21 following resources:

22 (1) two thousand dollars (\$2,000) in nonliquid
23 resources;

24 (2) one thousand five hundred dollars (\$1,500)
25 in liquid resources;

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1 (3) the value of the principal residence of
2 the participant;

3 (4) the value of burial plots and funeral
4 contracts for family members;

5 (5) individual development accounts; and

6 (6) the value of work-related equipment up to
7 one thousand dollars (\$1,000).

8 [~~(7) in areas without public transportation,~~
9 ~~the value of one motor vehicle for each participant engaged in~~
10 ~~a work activity; and~~

11 ~~(8) in areas with public transportation, the~~
12 ~~value of one motor vehicle.]~~

13 C. Vehicles owned by the benefit group shall not be
14 considered in the determination of resources attributed to the
15 benefit group."

16 Section 5. Section 27-2B-14 NMSA 1978 (being Laws 1998,
17 Chapter 8, Section 14 and Laws 1998, Chapter 9, Section 14, as
18 amended by Laws 2001, Chapter 295, Section 7 and by Laws 2001,
19 Chapter 326, Section 7) is amended to read:

20 "27-2B-14. SANCTIONS. --

21 A. The department shall sanction a member of a
22 benefit group for noncompliance with work requirements or child
23 support requirements.

24 B. The sanction shall be applied at the following
25 levels:

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1 (1) twenty-five percent reduction of cash
2 assistance for the first occurrence of noncompliance;

3 (2) fifty percent reduction of cash assistance
4 for the second occurrence of noncompliance; and

5 (3) termination of cash assistance and
6 ineligibility to reapply for six months for the third
7 occurrence of noncompliance.

8 C. Prior to imposing the first sanction, if the
9 department determines that a participant is not complying with
10 the work participation requirement or child support
11 requirements, the participant shall be required to enter into a
12 conciliation process established by the department to address
13 the noncompliance and to identify good cause for noncompliance
14 or barriers to compliance. The conciliation process shall
15 occur only once prior to the imposition of the sanction. The
16 participant shall have ten working days from the date a
17 conciliation notice is mailed to contact the department to
18 initiate the conciliation process. A participant who fails to
19 initiate the conciliation process shall have a notice of
20 adverse action mailed to him after the tenth working day
21 following the date on which the conciliation notice is mailed.
22 Participants who begin but do not complete the conciliation
23 process shall be mailed a notice of adverse action thirty days
24 from the date the original conciliation notice was mailed.

25 D. Reestablishing compliance shall allow full

1 payment to resume.

2 E. Noncompliance with reporting requirements may
3 subject a participant to other sanctions, except that an adult
4 member of the benefit group shall not be sanctioned for the
5 failure of a dependent child to attend school.

6 F. Effective October 1, 2001, the department shall
7 not terminate the medicaid benefits of any member of a benefit
8 group due to imposition of a sanction pursuant to the
9 provisions of this section. "

10 Section 6. EMERGENCY.--It is necessary for the public
11 peace, health and safety that this act take effect immediately.

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